

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on January 23, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Jeff Mangan, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. John Esp (R)
Rep. Dennis Himmelberger (R)
Rep. Hal Jacobson (D)
Rep. Rick Laible (R)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Ken Peterson (R)
Rep. William Price (R)
Rep. James Whitaker (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 179, HB 257, SB 87
1/20/01
Executive Action: HB 55, SB 87

HEARING ON HB 179

Sponsor: Representative Tom Dell, HD 19, Billings

Proponents: Gordon Morris, Director, Mt. Association of Counties

Opponents: none

Opening Statement by Sponsor:

Representative Tom Dell, HD 19, Billings, explained the bill is a response to the voters' right to know the true cost of a particular tax increase on their property, in a way they can understand. It also updates statutory language that relates to the mill levy election laws. This has to do with all mill levy elections. He has ran this bill past the Montana Association of Counties, Clerk and Recorders, and the Montana Department of Revenue and has received a general consensus that it's a workable bill. Remember, the goal of this bill is to ensure the voter can understand the mill levy in terms of dollars and cents as taxes increase on their property.

EXHIBIT(loh18a01) {Tape : 1; Side : A; Approx. Time Counter : 0 - 4.3}

Proponents' Testimony:

Gordon Morris, Mt. Association of Counties, said the average homeowner has complications trying to figure out what they owe in terms of taxes on property. The ballot is proposing to increase the amount a homeowner pays on taxes to \$65,000, so instead of reading "the average homeowner", the ballot should read "a home valued at \$65,000". With these changes I support HB 179 and ask for your consideration. **{Tape : 1; Side : A; Approx. Time Counter : 4.3 - 10.6}**

Informational Witnesses:

Robert Throssell, Mt. Assn. of Clerks and Recorders, said he is available to answer any questions the committee might have on this particular bill. **{Tape : 1; Side : A; Approx. Time Counter : 10.6 - 13.4}**

Opponents' Testimony: none

Questions from Committee Members and Responses:

Representative Lawson asked if the people **Rep. Dell** touched bases with included MEA or the Montana School Board Association. **Rep. Dell** replied that he talked with Lance Melton from MSBA, and he

didn't indicate any concerns towards this bill. **Rep. Lawson** asked why they are leaving out the MSBA, and expressed concern. **Rep. Dell** said he thinks the public is confused with the language as it pertains to his amendment. He doesn't think his "truth-in-levy" as it applies to dollar amounts for homeowners will do anything to hamper school districts. **Rep. Lawson** stated that the fiscal note states something else, and he would feel uncomfortable voting for the bill until it is clarified. **Rep. Dell** said that he did not initially sign this fiscal note, figuring he would follow up on it later.

Rep. Younkin asked why you would want to delete "the average homeowner" to say "a house valued at 65,000 dollars." **Rep. Dell** said he wanted to make it very precise and concrete. **Rep. Younkin** said the only concern she is having with it is that in the city there is no such thing as a \$65,000 house. **Rep. Dell** said you can use this number as a rough estimate to decide what you will owe.

Rep. Bitney gave a suggestion to have the bill read \$100,000.00, which is still artificial, but will allow calculating up and down in 10% increments. **Rep. Dell** said he will leave it up to the discretion of the committee to decide on the specific figure.

Rep. Anderson asked how this relates to agriculture property. **Rep. Dell** said it will be up to whoever sponsors this levy increase. They have to find what it's going to cost the average home owner. Real estate values aren't addressed in the bill, but could be. The purpose of the bill was to inform the voter.

Rep. Peterson asked if they were aware of the pamphlet that registered voters can pick up in response to the payment on a house valued at \$125,000.00. **Rep. Dell** said he isn't sure of the voter pamphlet, because it is issued periodically.

Rep. Noennig asked if some of the provisions which are modified by the big bill are in this bill. **Rep. Dell** replied the big bill contains many revisions in state and local revenue allocation. This bill stands on its own, and doesn't need to be coordinated with HB 124, whether HB 124 passes or not. **{Tape : 1; Side : A; Approx. Time Counter : 13.4 - 25.5}**

Closing by Sponsor:

Representative Dell said this bill will allow the voters to truly understand the personal costs dealing with the mill levy. This information might be found in other sources, but many of his constituents don't read pamphlets. If we put mill levies on there all we have to do is put on the average cost. As an added benefit,

possibly more mill levies will pass if the language is more clear. **{Tape : 1; Side : A; Approx. Time Counter : 25.5 - 27.3}**

HEARING ON HB 257

Sponsor: Representative Cindy Younkin, HD 28, Bozeman

Proponents: Jennifer Smith- Mitchell, Gallatin County
Commissioner
Gordon Morris, Director, Mt. Assn. of Counties
Ron Allis, Chief Adm. Officer for Lewis and Clark
County

Opponents: Alicia Pichette, Lewis and Clark Auditor

Opening Statement by Sponsor:

Representative Cindy Younkin, HD 28, Bozeman stated the bill modernizes the process for approval, disapproval, and payment by county auditors and county commissioners. It clarifies the process for payment, and how they would be contested. **{Tape : 1; Side : A; Approx. Time Counter : 27.3 - 29}**

Proponents' Testimony:

Jennifer Smith- Mitchell, Gallatin County Commissioner, said the bill would modernize the process and increase the consistency of local government processes and accountability that we expect from most government. The county auditor is the last step in the approval of a payment of counties' bills. This bill slightly reverses the process and proposes a change that would put the authority on the auditor, and not the county commissioners. This would be consistent with other decisions made by county commissioners such as contracts and grievances. At present, if the board of commissioners approve the payment of a claim, but the auditor denies it, the board must use the taxpayer's money to prove that it is a valid claim. This bill addresses the auditor's decision, allowing the board of commissioners to review the claim even if the auditor disapproves. They are allowed to appeal it to district court within seven days if the auditor still disapproves. This insures that the person who is expecting payment will be paid. **{Tape : 1; Side : A; Approx. Time Counter : 29 - 30} {Tape : 1; Side : B; Approx. Time Counter : 0 - 3.5}**

Gordon Morris, Director for MACO, said the bill is taking the district court judge out of the first position and putting them in

the second, and replacing it with the county commissioners. This process will facilitate the claims administration and the court house. This issue isn't for every county, but is important for those counties that have auditors. **{Tape : 1; Side : B; Approx. Time Counter : 3.5 - 5.8}**

Ron Allis, Chief Adm. Officer for Lewis and Clark County, said the bill provides another layer between the auditor and district board. This will allow in public forum a meeting where the claim could be debated and where there would be a free rule making. **{Tape : 1; Side : B; Approx. Time Counter : 5.8 - 7.3}**

Opponents' Testimony:

Alicia Pichette, Lewis and Clark Auditor, said she agrees with updating the language of the bill but has a concern, not an opposition, that switching places between auditor and commissioner is not a great idea. The statute to allow the auditor to disapprove in the first place was not to inconvenience the board of county commissioners, but to be accountable to the amount of public money being spent. This responsibility should not be given back to the entity. The best way to construct this is through partnership; that's how we have used it in the past. **{Tape : 1; Side : B; Approx. Time Counter : 7.3 - 9.6}**

Questions from Committee Members and Responses:

Rep. Carney asked what happens in counties that don't have auditors. **Rep. Younkin** said that the process that is currently being used will continue to be used. **Mr. Morris** said currently in counties without auditors, the work is done by county clerks and recorders and then submitted to commissioners on a regular basis.

Rep. Mangan asked if the business is getting an opportunity to appeal. **Mr. Morris** replied that if a claim is denied by the auditor, the vendor would have to go back to the court to see if the claim is valid to begin with. **Rep. Mangan** asked if the business has any type of right in the section or in the process. Can they go to the district court hearing? **Mr. Morris** said that would be part of the process.

Rep. Peterson asked why is the auditor allowed some right to override the commissioners by going to court. **Mr. Morris** replied we are following it like that, because that is how it is written in the state. By having the county commissioners between district courts and the auditor, it provides the public forum meeting and the legislative elected official that would either agree with the auditor or the district courts. **Rep. Peterson** asked who represents

the auditor in court. **Mr. Morris** said that if an auditor would go to court, payment would come out of their own personal pocket.

Rep. Price asked what an auditor does in those eight counties compared to what the clerk and recorders do in the others. **Mr. Morris** said the clerk and recorder is responsible for bringing together the warrants, which are submitted to the commissioner for ultimate approval. In the other ten counties the auditor reviews the warrant runs and submits them to the commissioners. We are talking about claims that are being submitted within the context of the adopted budget. If it is within the budget it should be approved. **Rep. Price** asked why don't we want to put the clerk and recorders in the same position, with them being first. **Mr. Morris** said that would raise more difficult problems. This is a minor issue. The district court isn't going to be in this process from the beginning, but as a fall back the auditor is used.

Rep. Lawson asked if MACO represents auditors. **Mr. Morris** said that they are in the association of county officials and have elected officials from other associations. **Rep. Lawson** asked who the auditors are involved in this particular resolution. **Mr. Morris** said that all of the legislative proposals go through the board of county officials, including many auditors. This issue goes back a couple of sessions, it isn't the first run at getting this concept approved by the legislature. **Rep. Lawson** asked if he was putting the county commissioners with the auditors or the district courts. **Mr. Morris** replied no. It takes the court out of the position of having to consider a claim that has already been disapproved by the auditor.

Rep. Peterson asked if the auditor would investigate all claims. **Mr. Morris** said that is not the case. They would only review claims coming from the department that is dealing with liability and insurance.

Rep. Lee asked if you can think of any incident where you would get into your personal pocket to appeal the district court. **Auditor Pichette** said she can't imagine anyone going into their personal pocket to appeal a \$400 or \$500 payment. **Rep. Lee** asked to further explain the disapproving of a claim. **Ms. Pichette** said the only way she would disapprove a claim is by asking if the vender is verifiable and considering if the item is within the budget proposed. **Rep. Lee** asked if all auditors have criteria or is that a judgment call for the person in that position. **Auditor Pichette** replied that each auditor has their own criteria, but all are much like the ones mentioned before.

Rep. Newman asked why there are generally accepted auditor standards, and are all the auditors supposed to follow those standards. **Ms. Pichette** said that each county has an external audit procedure. If an elected auditor chooses not to use those standards, it would be the first time. **Rep. Newman** asked if this would affect all auditors, or some auditors. **Auditor Pichette** said that it isn't informal.

Chairman Noennig asked if the auditor approves or denies the claim, is there still the right for an appeal. **Mr. Morris** said if the claim is denied for valid reasons, then the vendor may not wish to try for an appeal. That person would have an opportunity to go and meet with the county commissioner and auditor to determine why it was denied. *{Tape : 1; Side : B; Approx. Time Counter : 9.6 - 30}*
{Tape : 2; Side : A; Approx. Time Counter : 0 - 2.5}

Closing by Sponsor:

Rep. Younkin stated she will find out who pays the auditor's legal fees. On the subject of the county commissioners being able to override the auditor, the opposite can happen, where the auditor overrides the county commissioner. I don't think this removes any layers of checks and balances, in fact it provides another layer of checks and balances. *{Tape : 2; Side : A; Approx. Time Counter : 2.5 - 5.5}*

HEARING ON SB 87

Sponsor: Senator Mignon Waterman, SD 26, Helena

Proponents: Karen Bryson, Clerk of City Court
Robert Throsell, Mt. Magistrates Association
Debra Renay, Justice Court Clerk of Jefferson County

Opponents: none

Opening Statement by Sponsor:

Sen. Waterman stated the bill creates consistent language regarding court personnel. It mirrors the language for municipal courts, and makes it apply to city and justice courts. It creates the position of clerk of courts in Helena and some of the larger communities. It changes the language in justice and city courts to match that of the union municipal court law. *{Tape : 2; Side : A; Approx. Time Counter : 5.5 - 7.4}*

Proponents' Testimony:

Karen Bryson, Clerk of City Court, stated that the bill allows the clerks of justice courts to be recognized. There is no financial impact on local governments, and she would like the committee to consider this piece of legislation.

Robert Throsell, Rep. Of Mt. Magistrates Association, said it allows federal counties and cities to recognize the fact that the individuals take on many responsibilities, and urges the support of this bill.

Debra Renay, Justice Court Clerk of Jefferson County, said she asks for the support of SB 87 as admitted. *{Tape : 2; Side : A; Approx. Time Counter : 7.4 - 10.3}*

Opponents' Testimony: none

Questions from Committee Members and Responses: **Rep. Noenning**, we had testimony from the Clerk of the City Court and the Clerk of the City Court and this bill seems to provide that there can be such a thing, are they illegal now, these people are acting illegally now? **Sen. Waterman**, They would like to act with a title and be recognized. We often refer to them with that title but it is not official now.

Closing by Sponsor:

Sen. Waterman states that this is a simple bill that recognizes positions that obviously are in place in some of the larger communities, and makes it a local decision. **Rep. Jacobson to carry the bill.** *{Tape : 2; Side : A; Approx. Time Counter : 10.3 - 11}*

EXECUTIVE ACTION ON SB 87

Motion: **Rep. Younkin** moved that **SB 87 DO CONCUR.** *{Tape : 2; Side : A; Approx. Time Counter : 11 - 12}*

Discussion:

Rep. Newman said that he would support that the committee concur motion. His district has three clerks who aren't recognized as such in state law.

Motion/Vote: **REP. YOUNKIN** moved that **SB 87 BE CONCURRED IN.** Motion carried 18-0. *{Tape : 2; Side : A; Approx. Time Counter : 12 - 14.6}*

EXECUTIVE ACTION ON HB 55

Motion: Rep. Mangan moved that HB 55 DO PASS. {Tape : 2; Side : A; Approx. Time Counter : 14.6 - 18.9}

Discussion:

Rep. Mangan said that the bill is the federal election active list represented by Rep. Juneau, which requested that they can be removed from the inactive list and voted in any election, not just the federal election.

Rep. Mangan moved amendment HB 55. **EXHIBIT**(loh18a02){Tape : 2; Side : A; Approx. Time Counter : 18.9 - 30}

Rep. Newman asked how this piece of legislation impacts the bill discussed on the House floor a few weeks ago. Rep. Bitney said he didn't discuss it with the Flathead clerk and recorder because the way the law is right now; it can be reactivated in any election. Rep. Mangan said regardless with where we go with the bill, the amendment is needed to clarify the intent of what Rep. Juneau wants. Rep. Bitney isn't able to support the amendment, because of the number of logistical problems. It is awkward and dramatically increases the workload for the county officials. They need about 30 days leeway time to process.

Rep. Carney said when we had discussed this before, it was her understanding that all this was doing was making state elections the same as federal elections. Chairman Noennig asked if you want sub-section 2 or 3, but you can't have them both.

Rep. Mangan said this bill would allow those who voted in a school board election to activate themselves and vote at that time. Line three of the bill needs to be amended so we can follow through with what Rep. Juneau wants. Rep. Peterson said that if you pass on the amendment then the 30 days are gone. Rep. Mangan said if the bill doesn't pass then it doesn't make a difference.

Chairman Noennig said what the bill is saying is that it has to be processed as soon as the form is received, there isn't a 30 day period. Rep. Mangan stated the bill puts the same procedure in place for non-federal elections as for federal elections. Chairman Noennig said there is an unexpected consequence, that being subparagraphs B and C, which we haven't addressed. The current statute contemplates that if you file one of the forms in a non-federal election, you have to do it within 30 days of the election, and now the bill states no 30 day leeway. Is this practical? Rep.

Mangan said that it is practical in a federal election and impractical in a non-federal election.

Rep. Anderson said that the local clerk and recorder doesn't run the school election and the municipal election, therefore it would up to the judges to make this decision, but it says that the clerk and recorders are the ones who make the decision.

Rep. Carney said that there is an active list and an inactive list, which depends on if they voted in a federal election. If they haven't voted in a federal election, then they can't vote in a county election. All this is saying is, if they appear in the county election, the name goes back on the active list. There isn't a separate list for federal and county.

Mr. Throsell said the policy decision is to allow people on the active or inactive list to vote in any election. The reason for the 30 day provision is so the election greater prepares the precinct polls. There needs to be a cut off date for people who exercise their right to do that. Once you get past that 30 day window you are creating more paper work than necessary.

Rep. Mangan withdraws amendment. *{Tape : 2; Side : B; Approx. Time Counter : 0 - 12}*

Motion/Vote: REP. YOUNKIN moved that HB 55 BE AMENDED. Motion carried 18-0. *{Tape : 2; Side : B; Approx. Time Counter : 12 - 13.5}*

Motion/Vote: REP. MANGAN moved that HB 55 DO PASS AS AMENDED. Motion carried 10-8. *{Tape : 2; Side : B; Approx. Time Counter : 13 - 18}*

ADJOURNMENT

Adjournment: 5:20 P.M.

REP. MARK NOENNIG, Chairman

PATI O'REILLY, Secretary

MN/PO

EXHIBIT (loh18aad)